

State of South Dakota

EIGHTY-SEVENTH SESSION LEGISLATIVE ASSEMBLY, 2012

742T0733

HOUSE ENGROSSED NO. **HB 1230** - 2/14/2012

Introduced by: Representatives Nelson (Stace), Brunner, Feickert, Hansen (Jon), Hickey, Hoffman, Hubbel, Hunhoff (Bernie), Kirschman, Kloucek, Kopp, Liss, Magstadt, Olson (Betty), Rozum, Russell, Tornow, Tulson, Van Gerpen, and Venner and Senators Adelstein, Frerichs, Hundstad, and Maher

1 FOR AN ACT ENTITLED, An Act to modify the publication requirements regarding the
2 application for a well driller license or a well pump installer license.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 46-2A-4 be amended to read as follows:

5 46-2A-4. Except in the case of an application for a well driller license or a well pump
6 installer license, if a recommendation is to approve or defer an application or if an applicant has
7 filed a petition to oppose a recommendation to deny an application, the applicant shall publish
8 notice of the application and recommendation at least once a week for two successive weeks in
9 at least one official newspaper in each directly impacted county where the water will be diverted
10 or used or where project works will be located and also in one regional newspaper in the
11 immediately surrounding area of the county or counties where the water will be diverted or used.

12 The official newspaper shall be selected by the chief engineer and shall be a newspaper
13 designated as an official newspaper pursuant to § 7-18-3. The second publication shall be at
14 least twenty days before the first day of the Water Management Board meeting at which the



1 matter is noticed to be heard. In addition, the department shall display on the department's
2 internet site any application upon receipt of the application and until the date of any decision
3 on the application. No application for a permit, license, or amendment may be considered and
4 approved by the board until proof of all required publications has been filed with the chief
5 engineer. The notice, which shall be provided by the chief engineer to the applicable
6 newspapers, shall include the following, as applicable:

- 7 (1) The name and address of the applicant;
- 8 (2) A brief description of the project, including, where applicable, the proposed place or
9 places of use of the water or facilities, including the point of diversion, the amount
10 of water to be used and the purpose for which the water or facility is to be used;
- 11 (3) A brief statement describing the recommendation and the reasons for the
12 recommendation;
- 13 (4) A statement that any interested person who intends to participate in the hearing shall
14 file a petition to oppose or support the application and that the petition shall be filed
15 with the chief engineer and applicant at least ten days before the published date for
16 hearing;
- 17 (5) A statement that a petition to oppose or support an application may be informal, but
18 shall be in writing and shall contain the following:
 - 19 (a) A statement describing the petitioner's interest in the application;
 - 20 (b) The reasons for the petitioner's opposition to or support for the application;
 - 21 and
 - 22 (c) The signature and mailing address of the petitioner or the petitioner's legal
23 counsel;
- 24 (6) A statement telling where copies of the recommendation, application, or other

1 information may be obtained;

2 (7) The time when and the place where the application will be considered by the board;

3 (8) A statement that the recommendation of the chief engineer is not final or binding
4 upon the board and is subject to the approval of the board after it reaches a
5 conclusion based on facts at the public hearing;

6 (9) A statement that the time of hearing will be automatically extended for at least twenty
7 days upon written request of the applicant or any person who has filed a petition to
8 oppose or support the application and a statement that any such request by the
9 applicant or person filing a petition shall be made at least ten days before the
10 published date for hearing; and

11 (10) A statement that if the applicant does not contest the recommendation of the chief
12 engineer and no petition to oppose the application is received, the chief engineer shall
13 act on the application pursuant to the chief engineer's recommendation and no
14 hearing may be held before the board, unless the chief engineer makes a finding that
15 an application, even if uncontested, presents important issues of public policy or
16 public interest that should be heard by the board.